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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL ELVIS BURGAN,

Defendant and Appellant.

F055712

(Super. Ct. No. FP3588A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Arthur E. Wallace, Judge.

Rudolph Kraft III, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Cornell, J., and Hill, J.

Appellant Daniel Burgan appeals the order extending his state hospital commitment for an additional year pursuant to the Mentally Disordered Offender Act (MDOA) (Pen. Code, §§ 2970, 2972). Appellant's appointed counsel is unable to identify any specific issues on appeal. Citing *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *Anders v. California* (1967) 386 U.S. 738 (*Anders*), counsel asks that we independently review the record to determine whether there are any arguable appellate issues. Counsel has discussed the appeal with appellant and advised him he may file a supplemental brief.

In *Conservatorship of Ben C.* (2007) 40 Cal.4th 529 (*Ben C.*), the California Supreme Court concluded that *Wende* and *Anders* procedures do not apply to conservatorship proceedings under the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5000 et seq.). Subsequently, the Second District Court of Appeal concluded that under the rationale of *Ben C.*, the *Anders/Wende* review procedures do not apply to post-conviction commitments under the MDOA¹. (*People v. Taylor* (2008) 160 Cal.App.4th 304, 312.) We find the *Taylor* reasoning persuasive and apply it here.

Appellant filed a letter brief raising three issues. He contends his trial counsel coerced him into having a court trial rather than a jury trial, and “denied me the right to subpoena my witness’s [*sic*] telling me that a subp[oe]na only makes the person show up in the [a]udience [and] does not force them to testify which is a lie.” Further, his mother told him the deputy district attorney used scare tactics to keep her from testifying, “threatening to use her past against her [and] [d]iscredit her.” We have reviewed the briefs submitted by appellant and his appointed counsel. We decline to exercise our discretion to review the record for error. Competent counsel has represented appellant in this appeal and appellant's claims are either unsupported by or refuted in the record.

¹ The Fifth District Court of Appeal reached the same conclusion in a nonpublished opinion *People v. Taylor* (Jan. 13, 2009, F056109).

DISPOSITION

The appeal is dismissed.